



# புதுச்சேரி மாநில அரசிதழ்

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### பொருளடக்கம்

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## GOVERNMENT OF PUDUCHERRY

## LABOUR DEPARTMENT

(G.O. Rt. No. 140/Lab./AIL/T/2017  
Puducherry, dated 3rd October 2017)

## NOTIFICATION

Whereas, the Award in I.D. (L) No. 31/2014, dated 07-07-2017 of the Labour Court, Puducherry in respect of the industrial dispute raised by Thiru Koruvada Krishna, Yanam against the management of M/s. Hi-Tech Engineering Limited, Yanam over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G. O. Ms.No. 20/91/Lab./L, dated 23-5-91, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

**S. MOUTTOULINGAM,**

Under Secretary to Government, (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT AT PUDUCHERRY**

*Present :* Thiru G. THANENDRAN, B.COM.,M.L.,  
Presiding Officer,

*Friday, the 7th day of July, 2017*

**I.D. (L) No. 31/2014**

Koruvada Krishna, . . . Petitioner  
S/o. Durgayya,  
No. 1-440, H.1-13-13-122/A,  
IV Street, Gopal Nagar,  
Yanam-533 464.

*Versus*

The Managing Director,  
M/s. Hi-Tech Engineering Limited,  
Yanam-533 484. . . Respondent

This industrial dispute coming on 05-07-2017 before me for final hearing in the presence of Thiru R.S. Zivanandam, Advocate for the petitioner and Tvl. A. Karthikeyan and A. Pazhanisamy, Advocates for the respondent on record and subsequently, when the case was posted for filing of counter, the respondent being called absent and set *ex parte*, upon hearing the petitioner and perusing the case records, this Court passed the following:

## AWARD

1. This industrial dispute arises out of the reference made by the Government of Puducherry *vide* G. O. Rt. No. 79/AIL/Lab./J/2013, dated 02-05-2014 of the Labour Department, Puducherry to resolve the following dispute between the petitioner and the respondent, *viz.*,

(a) Whether the dispute raised by Thiru Koruvada Krishna against the management of M/s. Hi-Tech Engineering Limited, Yanam over non-employment is justified?

(b) If justified, what relief he is entitled to?

(c) To compute the relief, if any, awarded in terms of money, if it can be so computed?

2. *The brief averments of the claim statement filed by the petitioner are as follows :*

The petitioner was working as an Operator from the year 2002 in the respondent's company and discharged his duties unblemishing in his entire service and in the year 2010 due to severe back pain he availed ESI leave from 28-12-2010 to 21-07-2011 and after 21-07-2011 he availed medical leave as and when required and it was admitted by the respondent and after availing the leave on 02-04-2012, the petitioner went to join duty but, the petitioner was not allowed to enter inside the factory and the petitioner was phoned to the Director of the respondent C.V. Ramaroa for cause of prevention and that the said Managing Director instructed him to join on 03-04-2012 in "C" shift and when the petitioner went on 03-04-2012 at 07.30 p.m. again the petitioner was prevented to enter into the factory and when the petitioner phoned to said Managing Director C.V. Ramaroa, he abruptly replied that not to come to factory hereafter and on 04-04-2012, the petitioner made a complaint about the facts of non-employment to the Assistant Inspector of Labour at Yanam and subsequently, on 10-04-2012 a show cause notice has been sent by the respondent mentioning unauthorized absence from 11-03-2012 for the duty and on 13-04-2012 the petitioner has sent a reply to the show cause notice and on 02-04-2013 in the conciliation proceedings the respondent agreed for reinstatement of service with pre-condition not claiming any demand or any increment during the service and the conciliation ended in failure and therefore, the petitioner prays for reinstatement with back wages from 02-04-2012 and for increments on parity with other co-workers during the pendency 10 years of his service.

3. Though the Counsel for the respondent filed vakalat, despite several opportunities, no counter was filed on behalf of the respondent and hence, the respondent was set *ex parte*.

4. In the course of enquiry, the petitioner himself examined as PW.1 and Ex.P1 to Ex.P10 were marked.

5. *The point for determination is:*

Whether the dispute raised by the petitioner against the respondent management over his non-employment is justified or not?

6. Heard. It is the evidence of the petitioner that he had been in service at the respondent establishment from the year 2002 and during the year 2010 due to his back pain the petitioner has availed leave from 28-12-2010 to 21-07-2011 and thereafter, the petitioner has availed medical leave as and when required by him and on 10-03-2012 he submitted a medical fitness certificate to join duty from 02-04-2012 but, the respondent management has not allowed him to enter into the factory and on 10-04-2012, the respondent management has issued a show cause notice to the petitioner mentioning unauthorized absence from 11-03-2012 for duty and he raised a Industrial Dispute before the Conciliation Officer and this reference has been sent to this Court for proper adjudication.

7. In support of his case, the petitioner PW.1 has exhibited Ex.P1 to Ex.P10. Ex.P1 is the salary receipt issued by the respondent to the petitioner. Ex.P2 is the salary receipt issued by the respondent to the petitioner. Ex.P3 is the copy of the letter sent by the petitioner to Labour Inspector, Yanam which is in Telugu language along with English translation copy of the said letter. Ex.P4 is the show cause notice issued by the respondent along with the registered cover. Ex.P5 is the notice sent by the Inspector of Labour, Yanam to the respondent. Ex.P6 is the copy of the reply for the show cause notice. Ex.P7 is the copy of the counter application by the respondent before the Inspector of Labour, Yanam. Ex.P8 is the copy of the counter reply by the petitioner before the Inspector of Labour, Yanam. Ex.P9 is the copy of the notification in G. O. No. 79/AIL/Lab./J/2013. Ex.P10 is the failure report by Inspector of Labour, Yanam. These documents would go to show that the petitioner was working in the respondent concern and the respondent has paid salary to him and a show cause notice was issued to the petitioner by the respondent mentioning unauthorized absence and subsequently without enquiry the petitioner has been terminated from service and he has raised a industrial dispute before the Labour (Conciliation) and on failure, the case was referred to this Court for disposal.

8. It is clearly established through the petitioner evidence and records that the petitioner was working in the respondent concern and he has been terminated from service without following any procedure laid under the Industrial Disputes Act by the respondent for which he has raised the industrial dispute before the Conciliation Officer and the conciliation proceedings were failed and that therefore, this reference has been made to this Court to decide whether the dispute raised by the petitioner over non-employment is justified or not.

9. On the other hand, though the respondent Counsel filed vakalat for respondent, he does not file any counter and subsequently, due to his absence, the respondent was set *ex parte*. Considering the fact that the petitioner has established his case that he was working in the respondent concern and he has been terminated from service without following any procedure laid down under the Industrial Disputes Act by the respondent, it is to be held that the petitioner is entitled for the claim as prayed by him and hence, the dispute raised by the petitioner against the respondent management over his non-employment is justified and the petition is liable to be allowed and the petitioner is entitled for the order of reinstatement as claimed by him.

10. As this Court has decided that the industrial dispute raised by the petitioner against the respondent management over his non-employment is justified, it is to be decided whether the petitioner is entitled for back wages with continuity of service as claimed by the petitioner. In the light of the Judgment reported in U.P. State Brassware Corporation Limited Vs. Uday Narain Pandey (Supra), wherein, the Bench has observed that:

26. "No precise formula can be laid down as to under what circumstances payment of entire back wages should be allowed. Indisputably, it depends upon the facts and circumstances of each case. It would, however, not be correct to contend that it is automatic. It should not be granted mechanically only because on technical grounds or otherwise an order of termination is found to be in contravention of the provisions of section 6-N of the U.P. Industrial Disputes Act, 27. The Court also reiterated the rule that the workman is required to plead and *prima facie* prove that he was not gainfully employed during the intervening period".

And that therefore, in the light of the above observation, it is clear that the petitioner has to prove the fact that he has not employed gainfully during the intervening period. But, in this case, nothing is before this Court that the petitioner was not working anywhere else and that therefore,

he cannot be given full back wages. However, it is not the case of the respondent that the petitioner is working anywhere else and hence, considering all the above facts and circumstances and the above foregoing reasons, this Court finds that the petitioner is entitled for only part of backwages and hence, this Court tentatively fix that the petitioner is entitled only for 50% backwages with continuity of service and other attendant benefits.

11. In the result, the petition is partly allowed and the industrial dispute raised by the petitioner over the non-employment is justified and an Award is passed by directing the respondent to reinstate the petitioner within one month from the date of this order and to pay 50% back wages from the date of termination till the date of reinstatement with continuity of service and other attendant benefits. No cost.

Dictated to Stenographer, transcribed by her, corrected and pronounced by me in the Open Court on this the 07th day of July, 2017.

**G. THANENDRAN,**  
Presiding Officer  
Industrial Tribunal-cum-Labour Court  
Puducherry.

*List of petitioner's witness:*

PW.1 — 14-06-2017 — Koruvada Krishna

*List of petitioner's exhibits:*

Ex.P1 — August, 2008 — Salary receipt issued by the respondent to the petitioner.

Ex.P2 — July, 2010 — Salary receipt issued by the respondent to the petitioner.

Ex.P3 — 04-04-2012 — Copy of the letter sent by the petitioner to Labour Inspector, Yanam which is in Telugu language along with English translation copy of the said letter.

Ex.P4 — 04-04-2012 — Show cause notice issued by the respondent along with the registered cover.

Ex.P5 — 05-04-2012 — Notice sent by the Inspector of Labour, Yanam to the respondent.

Ex.P6 — 13-04-2012 — Copy of the reply for the show cause notice.

Ex.P7 — 30-04-2012 — Copy of the counter application by the respondent before the Inspector of Labour, Yanam.

Ex.P8 — 16-05-2012 — Copy of the counter reply by the petitioner before the Inspector, of Labour, Yanam.

Ex.P9 — Undated — Copy of the notification G. O. No.79/AIL/Lab./J/2013.

Ex.P10 — 28-03-2013 — Failure report by Inspector of Labour, Yanam.

*List of respondent's witnessess : Nil*

*List of respondent's exhibits: Nil*

**G. THANENDRAN,**  
Presiding Officer  
Industrial Tribunal-cum-Labour Court  
Puducherry.

**GOVERNMENT OF PUDUCHERRY  
LABOUR DEPARTMENT**

(G.O. Rt. No. 141/Lab./AIL/T/2017,  
Puducherry, dated 4th October 2017)

**NOTIFICATION**

Whereas, the Award in I.D.(L)No. 29/2015, dated 6-7-2017 of the Labour Court, Puducherry in respect of the industrial dispute between the Management of Sri Ram Charitable Trust, Puducherry and Thiru D. Vadivelu, Puducherry through the India Thozhirsanga Maiyam(CITU), Puducherry over non-employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L., dated 23-5-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

**S. MOUTTOULINGAM,**  
Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL -CUM-  
LABOUR COURT AT PUDUCHERRY**

*Present* :Thiru G. THANENDRAN, B.COM., M.L.,  
Presiding Officer.

*Thursday, the 6th day of July 2017.*

**I.D. (L) No. 29/2015**

D. Vadivelu,  
No.42, Cuddalore road,  
Barathi Mill Thittu, Mudaliarpet,  
Puducherry - 605 004. . . Petitioner

*Versus*

The Managing Director,  
M/s. Sriram Charitable Trust,  
No.54, I Cross Street Extension,  
Brindavanam, Saram,  
Puducherry - 605 013. . . Respondent

This industrial dispute coming up before me for final hearing on 29-6-2017 in the presence of Thiru S. Sivakumar, representative for the petitioner, Thiruvallargal K. Babu and C. Arivajagne, Advocates for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

**AWARD**

1. This industrial dispute has been referred by the Government as per the G. O. Rt. No. 53/AIL/Lab./J/2015, dated 18-6-2015 for adjudicating the following:-

(i) Whether the industrial dispute raised by Thiru D. Vadivelu against the management of M/s. Sri Ram Charitable Trust, Puducherry over his non-employment is justified ? If justified ? what relief he is entitled to ?

(ii) To compute the relief if any, awarded in terms of money if, it can be so computed?

2. The averments in the claim statement of the petitioner, in brief, are as follows:

It is stated that the petitioner was in service for the past five years in the respondent management and rendered his service up to the satisfaction of the management and while so, that on 1-10-2012, the management refused employment to the petitioner without any information and while questioning, the management not provided any reason for the refusal of the work and on the next day also the management refused employment to the petitioner and though

the petitioner daily approached for employment, the management not allowed to work and that the respondent management assured that they will provide employment from January-2013, when the petitioner approached the respondent management and the said management not provided any employment on January-2013 and also not replied for the representations, dated 10-4-2013 and 23-4-2013 sent through registered post by the petitioner and that due to refusal of employment without any reason by the respondent management, the petitioner suffered a lot without income and that the act of the respondent is against the legal provisions and natural justice and hence, the petitioner made a requisition through the union before the Labour (Conciliation) Officer on 10-5-2013 for reinstatement with full back wages and all other benefits and that the conciliation ended in failure and further stated that as per section 2(J) of Industrial Disputes Act, 1947, the respondent Sriram Charitable Trust is an Industry and as per section 2(S) of Industrial Disputes Act, 1947, the petitioner is a workman and there exist employer-employee relationship between the petitioner and the respondent management and therefore, the refusal of employment without any reason by the respondent management is an unfair labour practice and against the Industrial Disputes Act and therefore, prays for reinstatement with continuity of service and back wages.

3. The brief averments in the counter filed by the respondent are as follows:

(i) The respondent denied all the allegations made by the petitioner in the claim petition and stated that the allegations contained in the claim petition are baseless, vexatious, imaginary and made out for a case and does not bear any iota of truth and not maintainable either in law or on facts and further stated that the designation as referred to as "Managing Director" in the respondent's column in the cause title is totally misleading and there is no such designation and the respondent trust is managed by the "Managing Trustee" and that the petitioner was not an employee of the respondent Trust at any point of time and there does not exist any employee-employer relationship between the petitioner and the respondent Trust and that the respondent Charitable Trust is not an Industry and it is not covered under the definition of "Industry" under the Industrial Disputes Act, 1947 and does not come under the purview of Industrial Disputes Act, 1947.

(ii) It is further stated that as a part of the social services rendered for the public, the respondent used to organize free eye care camps at various villages and the petitioner had participated in such camps held between May, 2008 and September, 2012 as a volunteer and later the petitioner approached the respondent Trust and requested to issue a certificate for the services rendered by him representing that he needs the same for his future career and in order to appreciate the efforts and support extended by the petitioner for the social cause and obliging his request, the respondent Trust issued him a certificate, dated 6-4-2013 and the said certificate will itself categorically reveal that it is not a service or employment certificate and it is only a certificate issued to the petitioner for the voluntary services rendered by him through the respondent organization and it will also clarify the petitioner was not an employee of the respondent organization at any point of time and that apart from these social activities the petitioner was not connected with the respondent Trust at any point of time and that the claim made by the petitioner was purely a bogus claim which was made as an after thought, after receiving an appreciation certificate, dated 6-4-2013 from the respondent Trust.

(iii) The respondent also denied that the representative of the respondent requested the petitioner to come for bilateral discussion and also stated that in the proceeding held on 20-2-2014, the petitioner has realized his mistake and that of his wrong complaint requested the respondent's representative for some amount on compassionate ground which refused by the respondent's representative and expressed the Trust's inability to consider the request of the petitioner and it is further stated that the petitioner had wantonly concealed all these facts and had concocted a new story just to grab some money from the Trust by illegal means and to give undue hardship and further stated that the petitioner has no *locus standi* to seek reinstatement with attendant benefits or any other claim from the respondent Trust and that the issue will not come as a dispute under the said Act and their Trust is not a Industry under the said Act and therefore, prays this Court to dismiss this industrial dispute.

4. In the course of enquiry on the side of the petitioner, WW.1 was examined and Ex.W1 to Ex.W18 were marked and no evidence has been let in by the respondent and however, on the side of the respondent Ex.R1 to Ex.R8 were marked.

5. The point for consideration is:

Whether the dispute raised by the petitioner against the respondent management over his non-employment is justified or not and whether the petitioner is entitled for the relief as claimed by him?

6. Both sides are heard. The submission of both the parties, the evidence let in by the side of petitioner and the exhibits marked on both sides are carefully considered. In support of his contention, the learned representative for the petitioner has filed a written argument and also filed a reply argument and has also relied upon the Judgment in Bangalore Water Supply and Sewerage Board, *etc.*, Vs. R. Rajappa and others. On the other hand, the learned Counsel appearing for the respondent management has also filed a written argument and in support of his case the learned Counsel for the respondent has relied upon the Judgment reported in (2008) 2 LLJ 550.

7. It is the evidence of the petitioner that he had been in service of five years at the respondent establishment and he has worked for the development of the respondent establishment and when he was going to work on 1-10-2012, the respondent management has not permitted him to work and no reason was assigned by the management and though he had been regularly attending the establishment, his employment was refused by the management and it was told by the management that he would be joined in the employment on 1-1-2013 and on the said date also the respondent management has not permitted him to enter into the establishment and therefore, he has got not earnings from 1-10-2012 due to non-employment and hence, he sent a letter to the respondent management on 10-4-2013 and a remainder on 23-4-2013 asking for employment with back wages to the respondent and on 10-5-2013, he raised a dispute before the Conciliation Officer, wherein, the respondent management has stated that the respondent establishment is not an Industry and there is no relationship of employee-employer between the petitioner and the respondent establishment and further that he has been terminated from service without following any procedure and against the principles of natural justice and without any notice the petitioner was terminated from service and that therefore, he was prayed for reinstatement with continuity of service and back wages.

8. In support of his case the petitioner has exhibited Ex.W1 to Ex.W18. On perusal of documents, Ex.W1 is the copy of the letter given by the petitioner to the respondent management on 10-4-2013. Ex.W2 is the

copy of the letter given by the petitioner to the respondent management on 23-4-2013. Ex.W3 is the copy of the petition filed by the petitioner before the Labour Officer (Conciliation), Puducherry. Ex.W4 is the copy of the reply submitted by the respondent management before the Labour Officer (Conciliation), Puducherry. Ex.W5 is the copy of the reply given by the petitioner against the reply, dated 30-8-2013 of the respondent management before the Labour Officer (Conciliation), Puducherry. Ex.W6 is the copy of the reply given by the respondent management against the reply, dated 10-10-2013 of the petitioner before the Labour Officer (Conciliation), Puducherry. Ex.W7 is the copy of the reply given by the petitioner against the reply, dated 19-12-2013 of the respondent management before the Labour Officer (Conciliation), Puducherry. Ex.W8 is the copy of the letter given by the petitioner to the respondent management on 1-7-2014. Ex.W9 is the Copy of the letter given by the petitioner to the Labour Officer (Conciliation); Puducherry. Ex.W10 is the copy of the letter given by the respondent management at the time of enquiry. Ex.W11 is the copy of the reply given by the petitioner against the reply, dated 16-9-2014 of the respondent management. Ex.W12 is the copy of the failure report submitted by the Labour Officer (Conciliation) to the Secretary to Government, Puducherry. Ex.W13 is the copy of the notification given by the Labour Department, Puducherry. Ex.W14 is the copy of the certificate issued by the respondent management to the petitioner. Ex.W15 is the copy of the letter given by the respondent management to the Trust, DIG, Puducherry. Ex.W16 is the copy of the letter regarding requisition of loan given by the respondent management to Branch Manager, Pudukkottai Bharathiar Grama Bank, Bahour, Puducherry. Ex.W17 is the copy of the Bank Account book of Sri Ram Women Small Industries Society, Bahour, Puducherry. Ex.W18 is the Original visiting card of Sriram Rural Women Development Society, Production Center.

9. From these documents, it is clear that there is a communication between the petitioner and the respondent establishment and the petitioner has raised the industrial dispute before the Conciliation Officer wherein, the respondent management has stated that there is no relationship of employee and employer between the petitioner and the respondent and that therefore the Conciliation Officer has submitted a failure report to the Government and the reference has been sent to this Court and that the respondent

management has issued a certificate to the petitioner on 6-4-2013 and that the respondent management is functioning as Trust and they have applied a loan for the Women Self Help Group in a Bank and requested for the loan to be given to the Women Self Help Group and further the petitioner has exhibited Ex.W14 which is a vital document would evident that the respondent management has issued a certificate to the petitioner Vadivelu on 6-4-2013 stating that the petitioner was associated with organizing our Eye Camp conducted by them from the year May, 2008 to September, 2012.

10. On the other hand, it is stated by the respondent management that the petitioner was not an employee of the respondent Trust at any point of time and there does not exist any employee-employer relationship between the petitioner and the respondent Trust and that the respondent is a charitable Trust and not an Industry and it is not functioning for any profit and has rendering only social service and that therefore, the petitioner cannot seek any remedy from the respondent establishment as a worker and in support of the case, the respondent has exhibited. Ex.R1 to Ex.R8. Ex.R1 is the acknowledgment of certificate issued by the respondent management to the petitioner. Ex.R2 is the copy of the proceedings of Conciliation Officer, Puducherry. Ex.R3 is the letter of the petitioner to the respondent management. Ex.R4 is the copy of the letter of the petitioner to the respondent management. Ex.R5 is original bills and copy of payment voucher. Ex.R6 is the copy of proposal for education aid for petitioner's son with its enclosures. Ex.R7 is the copy of the Cheque No. 528539. Ex.R8 is the true copy of deed of Sriram Charitable Trust. These documents would go to show that the respondent management has issued a certificate to the petitioner Vadivelu on 6-4-2013 stating that the petitioner was associated with organizing our Eye Camp conducted by them from the year May, 2008 to September, 2012 and the petitioner has raised the industrial dispute before the Conciliation officer, Puducherry and on failure this reference has been made by the Government to this Tribunal and the petitioner has sent an application to the respondent Trust stating that he is very poor and request to sponsor cycle and computer for his two children and the respondent management has also sanctioned annual school fee of ₹ 20,030 to the son of the petitioner on 20-7-2012.

11. From the pleadings and evidence, it is clear that the respondent management has contended that the petitioner is not an employee of the respondent trust and furthermore, the respondent trust is not an industry and that therefore, the petitioner cannot claim anything under the Industrial Disputes Act. On this aspect, records and documents are perused. As pleaded by the petitioner that he is the employee of the respondent establishment and had been in service from 2008 to 2012 and only on 1-10-2012, the respondent management has refused employment to the petitioner and since, the respondent has denied the averment of the petitioner that he is the employee of the respondent establishment it is the duty cast upon the petitioner to prove the relationship of employee-employer between the petitioner and the respondent before this Court. The petitioner has not filed any document for their date of employment and the salary particulars and other particulars whether he was working as permanent worker or temporary or casual or any communication of the respondent management with him and he has also failed to file any document to prove the fact that he has served at the respondent management and worked as a workman for about 240 days in the year preceding their termination to infer that he is the permanent worker of the respondent management and even he has not stated anywhere in his claim statement that how much he was given as a salary and how much was lastly drawn by him. The petitioner has only filed a certificate issued by the respondent establishment as Ex.W14 which runs as follows:

“Mr. D. Vadivelu, S/o. Dharmalingam, residing at No. 22, Library Street, Kuruvinnatham, Bahour Commune, Puducherry-607 402, was associated with organizing our Eye Care Camps in rural areas in and around Puducherry between May, 2008 to September, 2012. We appreciate his sincere efforts and support extended for the social cause”,

From the above content of the Ex.P14, it is clear that the respondent management has certified that the petitioner Vadivelu was associated with the organizing Eye Care Camps in rural areas in and around Puducherry from May, 2008 to September, 2012 and the respondent management has further, appreciated his sincere efforts and support extended by him for the social cause and nowhere in the letter, the respondent management has stated that the said Vadivelu is working at this establishment as clerk or labour or in

any capacity and therefore, from this document alone, it cannot be presumed that the petitioner is an employee of the respondent Trust. Further, the petitioner has stated in his evidence that his employment was orally refused on 1-10-2012 while he was attending duty at the respondent establishment except the oral statement of the petitioner nothing is before this Court in support of his case.

12. In Judgment reported in AIR 2004 SC 1639-Workmen of Nilgiri Co-operative Marketing Society Limited, Vs. State of Tamil Nadu and others, the Hon'ble Supreme Court has held that,

“.....It is a well-settled principle of law that the person who sets up a plea of existence of relationship of employer and employee, the burden would be upon him...”

and the Judgment in Gopal Vs. Bharat Sanchar Nigam Limited the Hon'ble Delhi High Court has held that,

“.....We agree with the respondent that the onus to prove the relationship of employer-employee was on the appellant as held by the Supreme Court in Workmen of Nilgiri Co-operative Marketing Society Limited Vs. State of Tamil Nadu (Supra). The appellant could not produce appointment letter or any other document to show the relationship of employer and employee..”

From the above observations of the Hon'ble Supreme Court and the Hon'ble High Court, it is clear that the onus to prove the relationship of employer-employee is only on the petitioner who has pleaded that he is the employee of the respondent establishment. But, in this case, the petitioner has not exhibited any documents to prove the fact that he is working at the respondent establishment as an employee and nothing is before this Court to prove the fact that he was working at the respondent establishment as an employee. Furthermore, he has not stated in his claim statement on which date he has joined in the respondent establishment whether he has made an application for his appointment or has attended any interview at the respondent establishment and whether he was appointed as a permanent workman or temporary or casual labour and therefore, the petitioner has utterly failed to establish that he had been in service at the respondent establishment as an employee.



13. Percontra, the respondent has exhibited two letters given by the petitioner-Ex.R3 and Ex.R4. Ex.R3 is a letter given by the petitioner to the respondent trust asking help for their two children which runs as follows:

“மேற்கண்ட முகவரியில் வசிக்கும் நான், ஒரு தனியார் நிறுவனத்தில் களப்பணியாளராக பணிபுரிகின்றேன். எனக்கு 2 மகன்கள் உள்ளனர். அதில் பெரிய மகன் வ. சுந்தரய்யா, புரபொசர் அன்னுசாமி மேல் நிலைப்பள்ளியில் +1 படிக்கின்றான், பள்ளியின் N.S.S. மூலம் வேளாங்கண்ணிக்கு “சைக்கிள் கேம்ப” செல்ல இருப்பதாலும், எனக்கு அதைத்தவிர வேறு வருமானம் இல்லாததாலும் சைக்கிள் ஒன்று தங்கள் அறக்கடளை மூலம் வாங்கிக் கொடுத்து உதவி செய்தால் மிகவும் பயனள்ளதாக இருக்கும் என்று தங்களை அன்புடன் கேட்டுக்கொள்கிறேன்.

From the above content of the letter, it is clear that the petitioner has admitted the fact that he has been working in a private establishment as a Field Officer and he has not stated in that letter that he was working at the respondent establishment and further Ex.R4 also the letter addressed to the respondent trust by the petitioner in which also the petitioner has stated himself was working in a private establishment and he was not stated that he was working at the respondent establishment.

14. Further, the learned representative of the petitioner has filed a reply argument stating that the respondent management has issued a experience certificate under Ex.W14 to the petitioner on 6-4-2013 for the service rendered by the petitioner in the respondent establishment for the period of May, 2008 to September, 2012. But, the alleged Ex.W14 is not the experience certificate given by the respondent and as above discussed the certificate was issued by the respondent management to the petitioner for as he has associated with organizing the respondent eye care camps in the rural areas in and around Puducherry and for the support extended by him for the social cause and that therefore, the certificate issued by the respondent management which is marked as Ex.W14 would not evident that the petitioner was in service as an employee or workman in the respondent trust and further, it is stated by the representative of the petitioner in his reply argument that the petitioner has applied for education scholarship for his son to the respondent management and a cheque of ₹ 12,000 was given to him as he had been in service at the respondent establishment. But, the said application given by the petitioner to the

respondent management asking help for his son's education would evident that he was working in the private establishment and has earned only low income in the said private establishment and he requested educational help for his son from the respondent establishment and that therefore, a cheque has been issued by the respondent establishment and as a beneficiary he has received it and hence, the application given by the petitioner for the said scholarship and a cheque issued by the respondent to the petitioner for his son education would not prove the allegation that the petitioner was working at the respondent establishment.

15. Apart from that though the petitioner has exhibited Ex.W1 & Ex.W2-letters which alleged to have sent to the respondent management under the registered post are not supported by any acknowledgment of the receipt of the respondent and the petitioner has not stated why he has not exhibited the postal receipt or acknowledgment card to prove the said communication under Ex.W1 and Ex.W2 and that therefore, though the petitioner has exhibited Ex.W1 to Ex.W18, he has utterly failed to establish the fact that he was working at the respondent establishment as an employee. As already discussed by this Court that the onus to prove the relationship of employee-employer is on the petitioner who has claimed the relief and has pleaded that he was the employee of the respondent establishment and since, the petitioner has failed to prove the *prima facie* case for the relationship of employee-employer, on the score alone the petitioner is not entitled for any relief as claimed by him.

16. Further, the another contention of the respondent is that their establishment is not an industry and it is only a charitable trust and in support of the case they have relied upon the Judgment reported in (2008) 2 LLJ 550. But, the petitioner has stated that the respondent establishment is an industry and the industrial dispute can be raised against the respondent management and that therefore, the another issues to be decided is whether the respondent establishment is an industry or not. However, from the above discussion, as this Court has already held that the petitioner has failed to even establish the case that he was a workman or an employee of the respondent trust, it is not necessary or required to decide the said issue whether the respondent establishment is an industry or not since even if, it is decided as an industry

the petitioner is not entitled for any relief as the workman as he has not established the relationship of employee-employer and hence, the petitioner is not entitled for any relief and as such the petition is liable to be dismissed.

17. In the result, the petition is dismissed. No cost.

Dictated to the stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 06th day of July, 2017.

**G. THANENDRAN,**  
Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court, Puducherry.

*List of petitioner's witness:*

WW.1 — 22-02-2016— D. Vadivelu

*List of petitioner's exhibits:*

Ex.W1 — 10-04-2013 —Copy of the letter given by the petitioner to. the respondent management.

Ex.W2 — 23-04-2013 —Copy of the letter given by the petitioner to the respondent management.

Ex.W3 — 10-05-2013 —Copy of the petition filed by the petitioner before the Labour Officer(Conciliation), Puducherry.

Ex.W4 — 30-08-2013 —Copy of the reply submitted by the respondent management before the Labour Officer(Conciliation), Puducherry.

Ex.W5 — 10-10-2013 —Copy of the reply given by the petitioner against the reply, dated 30-08-2013 of the respondent management before the Labour Officer (Conciliation), Puducherry.

Ex.W6 — 19-12-2013 —Copy of the reply given by the respondent management against the reply, dated 10-10-2013 of the petitioner before the Labour Officer (Conciliation), Puducherry.

Ex.W7 — 20-02-2014 —Copy of the reply given by the petitioner against the reply, dated 19-12-2013 of the respondent management before the Labour Officer (Conciliation), Puducherry.

Ex.W8 — 01-07-2014 —Copy of the letter given by the petitioner to the respondent management.

Ex.W9 — 28-07-2014 —Copy of the letter given by the petitioner to the Labour Officer (Conciliation), Puducherry.

Ex.W10— 16-09-2017 —Copy of the letter given by the respondent management at the time of enquiry.

Ex.W11— 08-10-2014 —Copy of the reply given by the petitioner against the reply, dated 16-09-2014 of the respondent management.

Ex.W12— 28-01-2015 —Copy of the failure report submitted by the Labour Officer (Conciliation) to the Secretary to Government, Puducherry.

Ex.W13— 18-06-2015 —Copy of the notification given by the Labour Department, Puducherry.

Ex.W14— 06-04-2013 —Copy of the certificate issued by the respondent management to the petitioner.

Ex.W15— 25-09-2009 —Copy of the letter given by the respondent management to the Trust, DIG, Puducherry.

Ex.W16— 07-06-2010 —Copy of the letter regarding requisition of loan given by the respondent management to Branch Manager, Pudukkottai Bharathiar Grama Bank, Bahour, Pudukkottai.

Ex.W17— 24-08-2010 —Copy of the Bank Account book of Sri Ram Women Small Industries Society, Bahour, Pudukkottai.

Ex.W18— — — Original visiting card of Sriram Rural Women Development Society- Production Center.

List of respondent's witness: Nil

List of respondent's exhibits:

Ex.R1 — 06-04-2013 —Acknowledgment of certificate issued by the respondent management to the petitioner.

Ex.R2 — 10-02-2014 —Copy of the proceedings and of Conciliation Officer, 20-02-2014 Pudukkottai.

Ex.R3 — 02-11-2010 —Letter of the petitioner to the respondent management.

Ex.R4 — 08-07-2012 —Copy of the letter of the petitioner to the respondent management.

Ex.R5 — 20-11-2010 — (i) Original bills.  
01-12-2010— (ii) Copy of payment voucher.

Ex.R6 — 20-07-2012 —Copy of proposal for education aid for petitioner's son with its enclosures.

Ex.R7 — 23-07-2012 —Copy of the Cheque No.528539.

Ex.R8 — — — True Copy of deed of Sriram Charitable Trust.

G. THANENDRAN,  
Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court, Pudukkottai.

புதுச்சேரி அரசு  
இந்து சமய நிறுவனங்கள் மற்றும் வக்கீபு துறை

[அரசு ஆணை பல்வகை எண் 27/இசநி./கோ.4/2017  
புதுச்சேரி, நாள் 2017 ஐதா செப்டம்பர் மீ 25 உ.]

ஆணை

புதுச்சேரி மாநிலம், புதுச்சேரி வட்டாரம், பாரதி வீதி, அருள்மிகு காமாட்சி அம்மன் தேவஸ்தானத்திற்கு, அரசு ஆணை பல்வகை எண் 04/இசநி./கோ.4/2013, நாள் 17-2-2014-ன் மூலம் ஓர் அறங்காவலர் வாரியம் அமைக்கப்பட்டது. இவ்வறங்காவலர் வாரியத்தின் பதவிகாலம் முடிவடைந்துவிட்டது.

2. இந்நிலையில், மேற்குறிப்பிட்ட தேவஸ்தானத்தை நிர்வகிப்பதற்கு வேறொரு புதிய அறங்காவலர் வாரியம் அமைக்க வேண்டியது இன்றியமையாததாகிறது.

3. எனவே, 1972-ஆம் ஆண்டு புதுச்சேரி இந்து சமய நிறுவனங்கள் சட்டம் 4-(1)ஆம் பிரிவின்கீழ் வழங்கப்பட்டுள்ள அதிகாரங்களைச் செலுத்தி, புதுச்சேரி மாநிலம், புதுச்சேரி வட்டாரம், பாரதி வீதி, அருள்மிகு காமாட்சி அம்மன் தேவஸ்தானத்திற்கு, பின்வரும் ஐந்து நபர்களைக் கொண்ட ஓர் அறங்காவலர் வாரியத்தை அரசு உடனடியாக அமைக்கிறது.

திருவாளர்கள் :

- |  |                        |
|--|------------------------|
| (1) P. முத்தையன்,<br>த/பெ. பாவாடை,<br>எண் 156, மடுகரை மெயின் ரோடு,<br>ஏம்பலம், புதுச்சேரி.             | . . . தலைவர்           |
| (2) T. ராஜகோபால்,<br>த/பெ. தங்கவேல்,<br>எண் 11, 2-ஆவது குறுக்கு வீதி,<br>கிருஷ்ணா நகர், புதுச்சேரி.    | . . . துணைத்<br>தலைவர் |
| (3) S. சுப்ரமணியன்,<br>த/பெ. சக்கரபாணி,<br>எண் 103, வீரம்பட்டினம் ரோடு,<br>அரியாங்குப்பம், புதுச்சேரி. | . . . செயலாளர்         |
| (4) S. ஜோதி,<br>த/பெ. சுப்ரமணியன்,<br>எண் 24, தமிழ்மனை,<br>தென்றல் நகர், சாரம்,<br>புதுச்சேரி.         | . . . பொருளாளர்        |
| (5) K. S. சுப்ரமணியன்,<br>த/பெ. கண்ணன்,<br>எண் 1, பள்ளிக்கூட வீதி,<br>மடுகரை பேட்டை, புதுச்சேரி.       | . . . உறுப்பினர்       |

4. புதிய அறங்காவலர் வாரியம் தேவஸ்தானத்தின் பொறுப்புக்களை அதன் அசையும், அசையாச் சொத்துக்கள் மற்றும் இதர ஆவணங்களுடன், முந்தைய அறங்காவலர் வாரியத்திடமிருந்து உடனடியாக பெற்றுக்கொள்ளுமாறு அறிவுறுத்தப்படுகிறது.

5. 1972-ஆம் ஆண்டு புதுச்சேரி இந்து சமய நிறுவனங்கள் சட்டம் மற்றும் அதன்கீழ் இயற்றப்பட்ட விதிகளுக்குட்பட்டு அறங்காவலர் வாரியத்தினர் திருக்கோயிலை நிர்வகிக்கக் கடமைப்பட்டவர்களாவர். மேலும், நிர்வாகத்தினர் கடைப்பிடிக்க வேண்டிய சில முக்கிய பணிகள் கீழே கொடுக்கப்பட்டுள்ளன.